APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/222,340	12/28/1998	WILLIAM F. TERRELL	82771.P279	3304

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EXAMINER
VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 February 2002_ .

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-15_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-15_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

1.   This Action is in response to the Amendment and Response received 15 January 2002.

2.   The application has been examined. **Claims 1-15** are pending. The objection and

rejections are as stated below:

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et

al. (Thomas), U.S. Patent No. 6,148,336 in view of Schneider et al. (Schneider), U.S. Patent No.

6,178,505.

5.   Regarding **claim 1**, Thomas discloses the invention substantially as claimed. Thomas

discloses an apparatus comprising a network interface, through which the apparatus facilitates

communication between a client device and a remote device at any of a number of alternative

service levels and controller, coupled to the network interface controller [see Thomas, Figure 3,

Col. 2, lines 30-67, Col. 3, lines 1-67, Col. 4, lines 1-67, Col. 5, lines 1-24, Col. 7, lines 60-67,

Col. 8, lines 1-67]. However, Thomas does not explicitly disclose to dynamically create and

remove filters controlling access to the different service levels based, at least in part, on an

admission profile.

6.   In the same field of endeavor, Schneider discloses in an analogous art (e.g. secure delivery of information in a network). Schneider discloses to dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admission profile (Schneider teaches that access filters may be added or deleted using the add and delete buttons in a button bar as well as a administrators whom the policy allows for the editing, adding, deleting, and activating or deactivating a particular policy definition), [see Schneider, Col. 24, lines 15-67].

7.   Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Schneider's teachings of secure delivery of information in a network with the teachings of Thomas, for the purpose of providing only needed authentication and encryption security as a required, for a given user, a given path through the network, and a given resource [see Schneider, Col. 5, lines 67 and Col. 6, lines 1-3], this system further enhances the system of Thomas, in which Thomas provides the motivation to combine by wanting to solve the problem of filtering when only necessary by service providers [see Thomas, Col. 6, lines 34-67]. By this rationale **claim 1** is rejected.

8.   Regarding **claim 2**, Thomas-Schneider further discloses wherein the filters, when triggered, initiate an admission control decision preventing allocation of service level resources which are not yet required or authorized [see Thomas, Col. 5, lines 7-22]. By this rationale **claim 2** is rejected.

9.   Regarding **claim 3**, Thomas-Schneider further discloses wherein the filters are triggered by information contained within received data packets [see Thomas, Col. 5, lines 7-53]. By this rationale **claim 3** is rejected.

10.   Regarding **claim 4**, Thomas-Schneider further discloses wherein the filters are triggered

by one or both of packet source information and packet destination information [see Thomas,

Col. 9, lines 62-67 and Col. 10, lines 1-5]. By this rationale **claim 4** is rejected.

11.   Regarding **claim 5**, Thomas-Schneider further discloses wherein the admission profile is

stored in a communicatively coupled remote device [see Thomas, Figure 3]. By this rationale

claim 5 is rejected.

12.   Regarding **claim 6**, Thomas-Schneider further discloses wherein the communicatively

coupled remote device is a bandwidth broker or other generic policy server [see Thomas, Figure

3 and Schneider, Figures 1-7]. By this rationale **claim 6** is rejected.

13.   Regarding **claim 7**, Thomas-Schneider further discloses wherein the admission profile is

available locally within the apparatus [see Thomas, Figure 3 and Schneider Figures 1-7]. By this

rationale **claim 7** is rejected.

14.   Regarding **claim 8**, Thomas-Schneider further discloses wherein the controller

establishes an ingress profile in response to detecting an associated trigger event, wherein the

ingress profile modifies the received data packets adhering to the filter criteria to denote a

particular service level, in accordance with the admissions profile [see Schneider, Col. 33, lines

14-55]. By this rationale **claim 8** is rejected.

15.   Regarding **claim 9**, Thomas-Schneider further discloses wherein the controller removes

ingress profiles when data packet adhering to the filter criteria are no longer received, liberating

apparatus resources [see Schneider, Col. 26, lines 50-67]. By this rationale **claim 9** is rejected.

16.   Regarding **claim 10**, Thomas-Schneider further discloses wherein the controller removes

ingress profiles after a predetermined period of time, liberating apparatus resources [see

Schneider, Col. 32, lines 39-45]. By this rationale **claim 10** is rejected.

17.   Regarding **claim 11**, Thomas-Schneider further discloses wherein the controller removes

filters in accordance with a network administration policy [see rejection of **claim 1, supra**]. By

this rationale **claim 11** is rejected.

18.   Regarding **claim 12**, Thomas-Schneider further discloses wherein the controller removes

filters based, at least in part, on time-of-day [see Schneider, Figure 12, Col. 24, lines 61-67]. By

this rationale **claim 12** is rejected.

19.   Regarding **claim 13**, Thomas-Schneider further discloses a method for controlling

provisions of differentiated services in a data network [see Thomas, Col. 2, lines 30-67, Col. 4,

lines 48-67, Col. 5, lines 1-54], the method comprising installing a filter on a network edge

device to provide a trigger notification upon detecting data packets adhering to filter criteria, in

accordance with a network administration policy [see rejection of **claim 1, supra**] and

dynamically creating an ingress profiler which polices admission to a particular service level

(Thomas teaches that it is well known in the art to apply polices in determining which packets to

transmit or delay), [see Thomas, Col. 2, lines 40-45, see also **claim 1, supra**]. By this rationale

claim 13 is rejected.

20.   Regarding **claim 14**, Thomas-Schneider further discloses further comprising marking the

received data packets adhering to the filter criteria according to a subscribed service level [see

Thomas, Col. 6, lines 21-67]. By this rationale **claim14** is rejected.

21.   Regarding **claim 15**, Thomas-Schneider further disclose wherein the ingress profiler

polices admission to a particular service level by allowing only those received data packets

adhering to the filter criteria of a particular service level to proceed at that service level [see

Thomas, Col. 2, lines 45-65]. By this rationale **claim 15** is rejected.

Response to Arguments

22.   Applicant's Request for Withdrawal of the Rejection filed on 07 February 2002 has been

carefully considered but is not deemed fully persuasive. However, because there exists the

likelihood of future presentation of this argument, the Examiner thinks that it is prudent to

address Applicants' main points of contention.

A. Applicant contends that the proposition that Schneider discloses dynamic creations

and removal of filters is unsupported by the record.

23.   Regarding Point A, it is the Examiner's position that that a prima facie case of

obviousness was made in Paper 4. Specifically, regarding Applicant's contention that the

proposition that Schneider discloses dynamic creations and removal of filters is unsupported by

the record. In response that argument, it is the Examiner's position that Thomas-Schneider in

combination do in fact disclose dynamically create and remove filters controlling access to the

different service levels based, at least in part, on an admission profile. Based upon the well-

known teachings within Thomas-Schneider. Thomas teaches that each filter is attached to each

plugin. By doing so the filters that are attached to the plugins can be modified, analyzed, deleted

[see Thomas, Col. 12, lines 24-60]. Also, Thomas-Schneider teaches multiple filtering policies

are established. The plugins have many intended use.   These plugins may be used to encrypt all

packets for security [see Thomas, Col. 13, lines 16]. Thomas-Schneider teaches access filtering

policy is established. These policies can be defined and adjusted by an administrator. The

administrator also has a policy evaluator that evaluates each policy filter [see Schneider, Col. 24,

lines 15-60].

24.   Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to

limitations, which define the operation and apparatus of Applicant's disclosed invention in

manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as

broadly as possible their invention. It is also the Examiner's right to continue to interpret the

claim language as broadly as possible. It is the Examiner's position that the detailed

functionality that allows for Applicant's invention to overcome the prior art used in the rejection,

fails to differentiate in detail how these features are unique. It is advised that, in order to further

expedite the prosecution of the application in response to this action, Applicant should amend the

base claims to describe in more narrow detail the true distinguishing features of Applicant's

claim invention (i.e., Applicant's specification, page 14, lines 1-19, page 17, lines 5-18). As it is

extremely well known in the networking art as already shown by Thomas-Schneider and other

prior arts of records disclosed, to dynamically create and remove filters controlling access to the

different service levels based, at least in part, on an admission profile well as other claimed

features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the

claims in order to distinguish over the prior art use in the rejection that discloses different

features of Applicant's claim invention.

25.   Applicant has had an opportunity to amend the claimed subject matter, and has failed to

modify the claim language to distinguish over the prior art of record by clarifying or

substantially narrowing the claim language. Thus, Applicant apparently intends that a broad

interpretation be given to the claims and the Examiner has adopted such in the present and

previous Office action rejections. See In re Prater and Wei, 162 USPQ 541 (CCPA 1969), and

MPEP 2111.

26.   Applicant employs broad language, which includes the use of word, and phrases, which

have broad meanings in the art. In addition, Applicant has not argued any narrower

interpretation of the claim language, nor amended the claims significantly enough to construe a

narrower meaning to the limitations. As the claims breadth allows multiple interpretations and

meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the

claim limitations as broadly and as reasonably possible, in determining patentability of the

disclosed invention. Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir.1993).

27.   Failure for Applicant to significantly narrow definition/scope of the claims and supply

arguments commensurate in scope with the claims implies the Applicant intends broad

interpretation be given to the claims. The Examiner has interpreted the claims with scope

parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly

and distinctly defines the claimed invention.

Cited Prior Art of Record

28.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Radia et al. (Radia), U.S. Patent No. 5,848,233, does disclose dynamic creation and

removal of filters [see Radia, abstract, Col. 2, lines 3-67, Col. 3, lines 1-67, and Col. 4, lines 1-20].

Conclusion

29.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-5:00, 1st Friday Off.
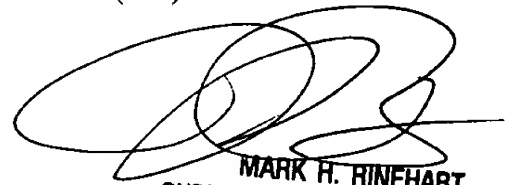
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-6306 for regular communications and (703) 308-6306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-9700.

WCV
Patent Examiner
Art Unit 2152
April 22, 2002

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
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